

REMARKS

This Amendment is in response to the Office Action mailed October 31, 2007. Claims 1-15 have been cancelled. Reconsideration and withdrawal of the rejections are respectfully requested in view of the following remarks.

Rejection under §101

On page 3 of the Office Action the Examiner rejected claim 20 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claim 20 as currently amended produce a useful, concrete, and tangible result, including but not limited to, displaying source reconstruction results overlayed onto anatomical data of said patient.

Rejections under §102

On page 6 of the Office Action the Examiner rejected claims 14-15 and 20 under 35 U.S.C. §102(b) as being anticipated by Ohyu et al., U.S. Patent No. 6,187,032, (hereinafter “Ohyu”). The Applicant respectfully disagrees.

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). The Applicant respectfully asserts that the rejection does not satisfy these requirements.

Independent claim 20 requires “a processor . . . configured to support multiple threads of execution....” Multiple threads of execution are defined on page 4 of the specification as “a single sequence of instructions executed in parallel with other sequences....” Multiple threads differ from multi-tasking in that multi-tasking is independent processes and multiple threads share information, memory and other resources directly between each thread. The Examiner indicated that Ohyu disclosed a processor configured to support multiple threads of execution in column 12 lines 4-20. The cited section of Ohyu discloses multi-tasking and not multiple threads of execution. Ohyu does not disclose the steps executed in parallel nor the direct sharing of information, memory or other resources between any of the algorithms. Therefore, it is respectfully submitted that Ohyu does not disclose the limitations of claim 20 in its entirety. Thus, claim 14 is believed allowable over Ohyu. Furthermore, dependent claims 16-19 are believed allowable as well by virtue of their dependency either directly or indirectly from allowable claims. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 20 requires “using the source reconstruction to modify the acquisition of a new electromagnetic physiological signals.” The Examiner indicated that this was disclosed by Ohyu. However, the Examiner did not provide a citation to a portion of Ohyu for teaching this element. However, Ohyu does not teach using a source reconstruction to modify the acquisition of a new electromagnetic physiological signal. Therefore, it is respectfully submitted that the Ohyu does not anticipate claim 20. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejections under §103

On page 9 of the Office Action the Examiner rejected claims 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over the Ohyu inv view of Kiyuna, U.S. Patent No. 6,073,040, (hereinafter “Kiyuna”). The Applicant respectfully disagrees.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the references' teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Applicant asserts that the rejection does not satisfy the basic criteria.

Claims 16 and 17 depend from independent claim 20. As discussed above Ohyu does not teach or suggest all of the elements of independent claim 20. The addition of Kiyuna does not remedy the deficiencies identified above. Therefore, the combination of Ohyu and Kiyuna cannot teach or suggest all of the elements of the dependent claims. Therefore, claims 16 and 17 are believed allowable over the combination of Ohyu and Kiyuna. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above, applicant believes the pending application is in condition for allowance. Reconsideration and allowance of the pending claims are respectfully requested.

Applicant believes no fee is due with this response. However, if an extension of time fee or any other fee is due, please charge Deposit Account No. 50-1212 (ref. 10400826) from which the undersigned is authorized to draw.

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Respectfully submitted,

By John F. Klos
John F. Klos
Registration No.: 37,162
FULBRIGHT & JAWORSKI L.L.P.
2100 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2112